

No. 59]. However, he did not withdraw the motion. Accordingly, it is hereby recommended that the motion to dismiss be denied as moot.¹

RECOMMENDATION

In light of the foregoing, it is recommended that Defendant Slabotsky's Motion to Dismiss [Doc. No. 32] be denied as moot. The parties are advised of their right to file an objection to this Report and Recommendation with the Clerk of Court by September 11, 2012, in accordance with 28 U.S.C. § 636 and Fed.R.Civ.P. 72. The parties are further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991). This Report and Recommendation **does not** dispose of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 21st day of August, 2012.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE

¹The undersigned notes Defendant's Slabotsky's comments regarding Plaintiff's failure to respond to the motion for summary judgment, and will address those at the time a recommendation regarding that motion is proposed.